

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Frederic FORTIN et al.)	Group Art Unit: 3733
)	
Application No.: 10/524,174)	Examiner: Fisher, Elana Beth
)	
Filed: March 3, 2006)	
)	Confirmation No.: 2469
For: DISTRACTION AND DAMPING)	
SYSTEM WHICH CAN BE)	
ADJUSTED AS THE VERTICAL)	
COLUMN GROWS)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants bring to the attention of the Examiner the listed documents on the attached PTO SB/08 Form. This Information Disclosure Statement is being filed concurrently with a Request for Continued Examination under 37 C.F.R. § 1.114 for the above-referenced application.

Copies of the listed foreign document and non-patent literature are submitted herewith. Copies of the U.S. patents are not enclosed.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, applicants should disclose prior

rejections of "substantially similar claim[s]" to the Office. *See also* M.P.E.P. § 2001.06(b). Accordingly, although Applicants are not representing that the Office Actions in the co-pending applications are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed the substantive Office Actions in co-pending applications on the attached form.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

The following is a concise statement of relevance of the non-English language documents:

1. **French Search Report and Written Opinion for Application No. FR 0510207, dated July 25, 2006:** This report was issued for French Application No. FR 0510207, which is related to U.S. Patent Application No. 12/083,184.
2. **French Search Report for Application No. FR 0109628, dated April 9, 2002:** This report was issued for French Application No. FR 0109628, to which the present application claims priority.
3. **French Search Report for Application No. FR 0210248, dated April 11, 2003:** This report was issued for French Application No. FR 0210248, which is related to U.S. Patent Application No. 10/524,174.
4. **French Search Report for Application No. FR 9907034, dated February 15, 2000:** This report was issued for French Application No. FR 9907034, which is related to U.S. Patent No. 7,029,472.

5. Written Opinion for International Application No. PCT/FR2006/002225,
mailed April 5, 2007: An English language translation is included with the original French language document.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the U.S. Patent and Trademark Office the relevant facts and law regarding the appropriate status of such documents.

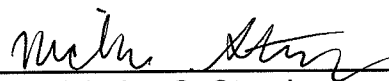
Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 17, 2009

By: 

Nicholas S. Stroeher
Reg. No. 62,926
(617) 452-1647